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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,237	05/17/1999	HARTMUT EICHINGER		9458

7590 07/13/2005

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EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/297,237	Applicant(s) EICHINGER, HARTMUT	
	Examiner Chi Q. Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-32 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-32,35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the applicant's remarks filed on 2/11/05.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 21, 26, 28, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Walmer ('960).

In regard claim 20, 21, 26, 28, and 31-32, Walmer teaches a playhouse with supporting posts having limit stops that are formed as vertical plate-like bodies 40,50 with horizontal slits 407, a roof 30 affixed to the supporting posts, the roof is a self-supporting slab resting in a horizontal direction directly upon and positioned in the horizontal slits of the supporting posts with the supporting posts vertically extending beyond the self-supporting slab, and with the self-supporting slab and supporting posts being stably connected without permanent fixation means. The supporting slab comprises a cover plate, which rest upon a level framework in a parallel direction. The support posts have a length exceeding the distance from the roof to the floor, and the slab is capable of being inserted edgewise into the recess or slit. The slab includes a fastening device 307,91 on its edge, the parts of the playhouse are connected to one

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another via plug connections 91, and screws are the permanent fixation means that are not used to connect the elements of the playhouse.

Claims 20-22, 24, 25, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaughlin ('418).

In regard claims 20-22, 24, 25, and 35, McLaughlin teaches a playhouse having supporting posts with locking elements being formed as vertical plate-like bodies 17 with horizontal slits 45 that are considered so because they are slits in the bodies and they extend in a horizontal direction. There is also a roof 25 affixed to the posts, the roof is a self-supporting slab that rests in the horizontal direction (fig. 3), and is positioned in the horizontal slits of the supporting posts (as demonstrated in fig. 20 at 49). The supporting posts vertically extend beyond the slab (as seen as the uppermost element 17 in figure 2, which could be utilized on a flat roof structure as in fig. 3), and the posts are stably connected without permanent fixation means. Figure 1 shows a configuration of a hexagonal playhouse, however, because it states that the elements could also be fastened at any angle from 0 degree to almost 180 degrees, a half-hexagon could also be created. The cross-section of the posts is considered to have a horizontal cross-section that is curved since the edges can be seen as being curved. The supporting posts have recesses, and it can be seen in figure 2 that a plurality of levels can be created, since there is a level midway up the structure. The locking elements of the supporting posts comprise a lockable extension 49 provided with a hook that is pushable through an aperture is a support for each locking element, the cross-section of

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the aperture being diminished by the locking element so that the hook cannot be pulled outwardly from the aperture.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin ('418).

In regard claim 23, McLaughlin teaches a structure as stated above, but does not specifically state that a half-hexagon could be created. McLaughlin does state that the elements could also be fastened at any angle from 0 degree to almost 180 degrees. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a half-hexagon. It would be a matter of design choice to create various shapes, and because the elements could be fastened between the stated angles, this shape could be created. A half-hexagon, versus a hexagon, could be placed near a flat wall surface without taking up as much space.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walmer ('960) in view of Kakuk ('924).

In regard claim 27, Walmer teaches a structure as stated above, but does not state that the vertical bodies are comprised of straw with a binding agent. Walmer teaches that lightweight building components are known to be made of straw with a

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binding agent (column 4, lines 7-10). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have prefabricated parts that are made from straw and a binding agent. Lightweight components would be ideal for a playhouse, as it would be easy for a parent to put together.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walmer ('960) in view of Katz '818).

Walmer teaches a structure as stated above, but does not show a guide or side rail on the topside or base of the slab. Katz is cited to show that railing or guide rails are well known and utilized in the art near stairs, balconies, and the like (col. 1, lines 7-12) in order to provide a safe structure. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a guide rail or railing near the opening at 305 in Walmer since it is near an opening in the floor to a lower level. And although Walmer provided a playhouse, providing a guide rail would create as realistic a recreation of a large house as possible.

Response to Arguments

Applicant's arguments filed 5/4/2005 have been fully considered but they are not persuasive because Walmer does teach a roof 30 resting in a horizontal direction directly upon and positioned in the horizontal slits of the supporting posts (see figure 4) and the supporting posts extend vertically beyond the roof therein (see also figure 4). And also McLaughlin does teach supporting posts 17 or 19 and each of the supporting posts having horizontal slits for supporting a roof (see figures 2, 3, 21). And the supporting posts vertically extend beyond the slab (as seen as the uppermost element

17) in figure 2, which could be utilized on a flat roof structure as in figure 3), and the posts are stably connected without permanent means (see above rejections).

Accordingly, the prior arts teach the applicant's claimed invention and the examiner believes the rejections are properly made and still maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

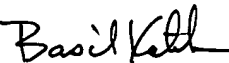
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7/7/2005

CW
CQN


BASIL KATCHERES
PRIMARY EXAMINER
7/11/05